

REMARKS

Claims 1-12 are rejected. Claim 1 is amended. Claims 13-15 are withdrawn in view of a previous restriction requirement. Claims 1-12 remain pending.

Claim 1 is amended to further describe the flexibility of the flexible shaft. Support is found at page 10, lines 12-27, and Figures 3-4 of the application as filed. No new matter is added.

102 Rejection:

Claims 1-12 are rejected as anticipated by US 5,275,322 (Brinkerhoff). It is respectfully urged that this rejection is improper for at least the following reasons.

First, as explained in the previous response, the Examiner states that Brinkerhoff teaches a "flexible shaft 70". It is respectfully urged that Brinkerhoff describes element 70 as "a longitudinally curved support shaft assembly 70". See column 8, lines 50-60. The Examiner states that Brinkerhoff teaches a shaft 70 made of fiber filled with plastic material, and the Examiner assumes Brinkerhoff's shaft assembly 70 has "some sort of flexibility."

While Applicant disagrees with the Examiner's reason for rejection, Claim 1 is amended to recite, among other things, that the flexible shaft has sufficient flexibility to be formed into an operable, looped configuration during use. It is respectfully urged that Brinkerhoff does not teach a flexible shaft having such flexibility, and the rejection should be withdrawn.

Second, with respect to various dependent claims, it is respectfully urged that the Examiner has misinterpreted the disclosure of Brinkerhoff, or not provided an explanation for the rejection.

For instance, the Examiner states that Brinkerhoff includes a "torsion spring 312." However, Brinkerhoff discloses element 312 to be a safety release bracket 312. See column 15, lines 9-11.

The Examiner also notes that Brinkerhoff teaches a spring 320. As explained previously, Brinkerhoff teaches at column 15, lines 35-40, that a safety release bracket 312 is biased distally by the coil spring 320 to urge the upstanding flange 318 against the rib 315 with the finger 324 advanced distally and disengaged from the indication lever 326. Brinkerhoff goes on to explain at lines 50-55 that the indicator lever moves the indicator 84 along a scale to provide an indication of the selected staple height.

Accordingly, it is respectfully urged that spring 320 of Brinkerhoff does not couple an actuation member to a pulling member, as the Examiner maintains.

Instead, the spring 320 is used in a portion of the Brinkerhoff device that moves an indicator lever.

Accordingly, the rejections based on the Examiner's improper application of Brinkerhoff should be withdrawn.

Further, as explained in the previous response, the Examiner has not addressed or provided any basis for rejection of at least one or more of the Claims 8, 9, and 10.

For instance, Claim 8 recites, among other things, a proximal end of the pulling member is joined to a relatively larger diameter member, and wherein the actuator mechanism engages the relatively larger diameter member to provide coupling of the actuator mechanism to the pulling member.

Claim 9 recites, among other things, the actuator mechanism engages the relatively larger diameter member by gripping engagement.

Because the Examiner's rejection does not address the subject matter of at least some of the rejected claims, it is respectfully urged that if the rejection is not withdrawn, the Examiner provide a subsequent non-final rejection that provides the basis of the rejection so that the Applicant has a full and fair opportunity to respond.

The Examiner is respectfully requested to reconsider and allow the pending claims.

Respectfully submitted,

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